INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF MESA

22

APRIL

1986

THIS AGREEMENT entered into this 22 day of (Pri), 19%, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and the City of Mesa, acting by and through its City Council, hereinafter called "City".

WHEREAS, State is empowered by Section 28-108 Arizona Revised Statutes to enter into this agreement and has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and the Director of the Arizona Department of Transportation has delegated to the undersigned the authority to execute same on behalf of State; and

WHEREAS, City is empowered by Section 9-672 Arizona Revised Statutes to enter into this agreement, and acting by and through its City Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of City; and

WHEREAS, State has established preliminary transportation corridors identified as State Route 216 (Red Mountain) and State Route 220 (Southeast Loop) where said highways traverse a portion of the City of Mesa; and

WHEREAS, both parties acknowledge that it would be in the best interest of the public to commence right of way acquisition under an advanced acquisition project in an effort to forestall land development or alleviate hardship within the area designated; and

WHEREAS, City has determined that it would be in the City's best interest to assist State in the preliminary stages of highway development.

THEREFORE, the parties hereto agree as follows:

CITY:

- l. Shall complete the location and design concept studies including the environmental assessment for the entire route from the Outer Loop T.I. to south of Baseline Road in conformance with State requirements.
 - 2. Shall assist State in acquiring right of way for said highways by

NO. 11035 FILED WITH SECRETARY OF STATE Date Filed 5-7-86

performing the following services in connection therewith: 1) Appraisal 2) Acquisition 3) Relocation 3. Shall perform right of way acquisition services in conformance with prevailing federal guidelines promulgated in the Code of Federal Regulations. 4. Shall perform said services in connection with real properties that are determined by State to be needed by advance acquisition in order to forestall development or alleviate hardship. Supporting data will be furnished to State in conformance with a procedure to be agreed upon by both parties. 5. Shall continue to perform said service when the project is approved for complete acquisition. 6. Shall submit appraisals to State for review and approval prior to presenting an offer for purchase. 7. Shall submit signed instruments and entire acquisition package to State for review and payment. 8. Shall purchase real property with title vesting directly in the State. 9. Shall not attempt to acquire needed right of way through the condemnation process. 10. Shall submit billings to State at ninety (90) day intervals. Said billings will be City's actual cost incurred and covered by this agreement. STATE: 1. Shall reimburse the City for the cost of the location and design

- studies subsequent to this agreement and the environmental assessment.
- 2. Shall conduct a combined location/design hearing for the east leg and a design hearing for the north leg.
 - 3. Shall review City's activities in connection with this agreement.
- 4. Shall monitor City's right of way acquisitions by an approval and review process.
 - 5. Shall pay for property purchased, and approved relocation costs.

- 6. Shall reimburse City for the following expenses relating to the acquisition and relocation processes.
 - 1) Appraisal fees.
 - 2) Incidental costs.
 - 3) Actual staff time.
 - 4) Other expenses based upon supporting documentation.
- 7. Shall reimburse City its actual administrative costs incurred for services agreed to by both parties, in connection with this agreement.
- 8. Shall condemn on State's behalf, as a last resort, those properties required for the project that cannot otherwise be acquired.

All parties hereto acknowledge that performance and discharge of State's duties recited herein are conditioned upon the availability of funds as allocated in the Five-Year Transportation Plan and subject to resolutions by the Transportation Board signifying approval of each acquisition package.

THIS AGREEMENT shall remain in full force and effect until completion of said acquisition program as aforesaid; provided, however, that this agreement may be cancelled at any time prior to the commencement of construction upon 30 days' written notice to the other party.

All parties hereto acknowledge that this agreement is subject to cancellation by the GOvernor pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Section 12-1518 (B) and (C) of Arizona Revised Statutes as amended.

This Agreement shall become effective on the date of filing same with the Secretary of State.

Attached hereto and incorporated herein by reference is a copy of State's resolution authorizing entry into this agreement, a copy of City's resolution passed by its City Council, a copy of the written determination of the

appropriate attorney that City is authorized under the laws of this State to enter into this agreement, and that said agreement is in proper form, and a copy of the Attorney General's Intergovernmental Agreement Determination.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF MESA:

(;)

City Manager

STATE OF ARIZONA

ARIZONA DEPARTMENT OF TRANSPOSTATION

By:

11. O. Ford State Engineer

ATTEST:

Title:

City Clerk

APPROVED AS TO FORM AND AUTHORITY:

City Attorney



I, DORTHE DANA, THE DULY APPOINTED, QUALIFIED, AND ACTING CITY CLERK OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF RESOLUTION NO. 5717, ENTITLED:

RESOLUTION NO. 5717

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF MESA WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION.

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MESA, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THE CITY OF MESA, MARICOPA COUNTY, STATE OF ARIZONA, THIS 10TH DAY OF APRIL , 19 86 .

DORTHE DANA CITY CLERK

RESOLUTION NO. 5717

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF MESA WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Intergovernmental Agreement between the City of Mesa and the State of Arizona, acting through its Department of Transportation, for the development of the "Red Lountain Freeway" and the "Southeast Loop" is hereby approved.

Section 2: That the City Manager is authorized and directed on behalf of the City of Mesa to execute the intergovernmental agreement, and the City Clerk is authorized and directed to attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 7th day of April, 1986.

APPROVED:

ATTEST:

Mayor

City Clerk

People • Priae • Progress

15 Month Center Street P.C. Box 1444 Meso: 41 85201 0502 1001 834-2011

OFFICE OF THE CITY ATTORNEY
48 North Macdonald
(602) 964-1421

April 1, 1986

Dean Sloan
Public Works Manager
City of Mesa
P. O. Box 1466
Mesa, Arizona 85201-0904

Re: Intergovernmental Agreement between the State of Arizona and the City of Mesa relating to State Routes 216 and 220

Dear Mr. Sloan:

Pursuant to your request, I have reviewed the Intergovernmental Agreement between the State of Arizona, acting through its Department of Transportation, and the City of Mesa relating to State Route 216 (Red Mountain Freeway) and State Route 220 (Southeast Loop).

It is my opinion that the City of Mesa is authorized under the laws of the State of Arizona to execute this agreement, and that the agreement is in proper form.

Yours very truly,

CITY OF MESA

J. LaMar Shelley City Attorney

JLS:jhw

Projects: AZM-600-7-701 (S.R. 220) AZM-600-8-701 (S.R. 216)

RESOLUTION

BE IT RESOLVED on this 2.0 day of _______, 19____ that I, Charles L. Miller, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION. have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION. acting by and through the Highways Division, enter into an Intergovernmental Agreement with the City of Mesa for the purpose of jointly acquiring needed right of way by advance acquisition process in connection with State Route 216 (Red Mountain) and State Route 220 (Southeast Loop).

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.

Charles L. Miller, Director

Arizona Department of Transportation

GSW:ks



Attorney General

1275 WEST WASHINGTON

Phoenix, Ārizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

KR. 86-0171

A. G. Contract No. _____, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 2 day of May

1936.

ROBERT K. CORBIN

Attorney General

Assistant Attorney General Transportation Division